

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 227

Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Burling, 33;
Dierks, 40; Jensen, 20; Preister, 5; Price, 26;
Raikes, 25; Redfield, 12; Schimek, 27; Schrock, 38;
Suttle, 10

Read first time January 5, 2001

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend
2 sections 71-5701, 71-5702, 71-5703, and 71-5708, Reissue
3 Revised Statutes of Nebraska, and section 71-5707,
4 Revised Statutes Supplement, 2000; to define a term; to
5 change designated smoking area provisions; to harmonize
6 provisions; to provide an operative date; and to repeal
7 the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5701. Sections 71-5701 to 71-5713 and section 4 of
4 this act shall be known and may be cited as the Nebraska Clean
5 Indoor Air Act.

6 Sec. 2. Section 71-5702, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the
9 Nebraska Clean Indoor Air Act is to protect the public health,
10 comfort, and environment by prohibiting smoking in public places
11 and at public meetings except in designated smoking areas. Nothing
12 in the act shall be construed to restrict or prohibit a governing
13 body of a county, city, or village from establishing and enforcing
14 ordinances at least as stringent as, or more stringent than, the
15 provisions of the act.

16 Sec. 3. Section 71-5703, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the
19 Nebraska Clean Indoor Air Act, unless the context otherwise
20 requires, the definitions found in sections 71-5704 to 71-5706 and
21 section 4 of this act shall be used.

22 Sec. 4. Bar means a business establishment devoted
23 primarily to providing entertainment, dancing, and the sale of
24 alcoholic beverages to the public and not devoted primarily to the
25 service of food. The revenue generated from the sale of food shall
26 be less than the revenue generated from the sale of alcoholic
27 beverages plus the revenue generated from the provision of
28 entertainment and dancing.

1 Sec. 5. Section 71-5707, Revised Statutes Supplement,
2 2000, is amended to read:

3 71-5707. (1) No person shall smoke in a public place or
4 at a public meeting except in designated smoking areas. This
5 prohibition does not apply in cases in which an entire room or hall
6 is used for a private social function and seating arrangements are
7 under the control of the sponsor of the function and not of the
8 proprietor or person in charge of such room or hall.

9 (2) There shall be no designated smoking areas in an
10 enclosed, indoor area of a restaurant, except:

11 (a) In a full-service retail area of a restaurant
12 required to have a Class C, I, or M license for the sale of
13 alcoholic liquor for consumption on the premises under the Nebraska
14 Liquor Control Act if the full-service retail area is separate from
15 the rest of the restaurant; and

16 (b) In a party or meeting room which adjoins the rest of
17 a restaurant if the party or meeting room is used for private
18 parties or private social functions and is designated as a smoking
19 area by the owner or proprietor of the restaurant.

20 (3) With respect to factories, warehouses, and similar
21 places of work not usually frequented by the general public, the
22 Department of Health and Human Services Regulation and Licensure
23 shall, in consultation with the Department of Labor, establish
24 rules to restrict or prohibit smoking in those places of work where
25 the close proximity of workers or the inadequacy of ventilation
26 causes smoke pollution detrimental to the health and comfort of
27 nonsmoking employees.

28 ~~(3)~~ (4) No person shall smoke at a site where child care

1 programs required to be licensed under section 71-1911 are
2 provided. This prohibition does not apply if the child care
3 program is located in the home of the provider.

4 ~~(4)~~ (5) Smoking is prohibited in all vehicles owned or
5 leased by the state and in all buildings, and the area within ten
6 feet of any entrance of such buildings, which are owned, leased, or
7 occupied by the state except: ~~as provided in subsections (5), (6),~~
8 ~~and (7) of this section.~~

9 ~~(5)~~ (a) The following buildings or areas within buildings
10 in which persons reside or lodge may be exempt from this section:
11 ~~(a)~~ (i) Nebraska veterans homes established pursuant to section
12 80-315; ~~(b)~~ (ii) private residences; ~~(c)~~ (iii) facilities and
13 institutions under the control of the Department of Health and
14 Human Services; and ~~(d)~~ (iv) overnight lodging facilities and
15 buildings managed by the Game and Parks Commission, but no more
16 than twenty-five percent of the overnight lodging facilities at
17 each park location shall permit smoking; -

18 ~~(6)~~ (b) Designated smoking areas not to exceed fifty
19 percent of the space used by the public, may be established in
20 state-owned buildings at the Nebraska State Fairgrounds that
21 possess a Class C, I, or M license for the sale of alcoholic liquor
22 for consumption on the premises under the Nebraska Liquor Control
23 Act; and -

24 ~~(7)~~ (c) Smoking may be permitted in no more than forty
25 percent of the residential housing rooms or units owned or leased
26 on each campus under the control of the Board of Regents of the
27 University of Nebraska or the Board of Trustees of the Nebraska
28 State Colleges.

1 Sec. 6. Section 71-5708, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5708. Smoking areas may be designated by proprietors
4 or other persons in charge of public places, except in places in
5 which smoking is prohibited by the State Fire Marshal, by section
6 71-5707, or by other law, ordinance, or regulation.

7 Where smoking areas are designated, existing physical
8 barriers and ventilation systems shall be used to minimize the
9 toxic effect of smoke in adjacent nonsmoking areas. If a public
10 place consists of a single room, one side of the room shall be
11 reserved and posted as a no smoking area. No public place other
12 than a bar ~~or restaurant having a serving area of less than twelve~~
13 ~~hundred square feet~~ shall be designated as a smoking area in its
14 entirety. If a bar ~~or restaurant having a serving area of less~~
15 ~~than twelve hundred square feet~~ is designated as a smoking area in
16 its entirety, such designation shall be posted conspicuously on all
17 entrances normally used by the public.

18 Sec. 7. This act shall become operative on January 1,
19 2002.

20 Sec. 8. Original sections 71-5701, 71-5702, 71-5703, and
21 71-5708, Reissue Revised Statutes of Nebraska, and section 71-5707,
22 Revised Statutes Supplement, 2000, are repealed.